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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,132	12/14/2001	Carmen Flosbach	FA1043 US NA	8944
23906	7590	04/29/2004	EXAMINER	
E I DU PONT DE NEMOURS AND COMPANY LEGAL PATENT RECORDS CENTER BARLEY MILL PLAZA 25/1128 4417 LANCASTER PIKE WILMINGTON, DE 19805			MICHENER, JENNIFER KOLB	
			ART UNIT	PAPER NUMBER
			1762	

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/017,132

Applicant(s)

FLOSBACH ET AL.

Examiner

Jennifer K Michener

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/9/2004&amp;2/23/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Double Patenting***

1. The rejection of claims 1-7 and 11-12 under the judicially created doctrine of obviousness-type double patenting has been withdrawn in light of Applicant's submission of a terminal disclaimer.

### ***Claim Rejections - 35 USC § 103***

2. Claims 1, 3-5, and 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman et al. (US 5,891,292) in view of Negele et al. (US 6,221,439 B1).

Examiner maintains the rejection.

3. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman in view of Negele as applied to claims 1, 3-5, and 7-12 above, and further in view of Smith et al. (5,166,007).

Examiner maintains the rejection.

### ***Response to Arguments***

4. Applicant's arguments filed 2/9/04 have been fully considered but they are not persuasive.

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Applicant argues that Goodman does not teach a method of repair using "only a polymer network" as now claimed, but instead teaches repairing with fiber-reinforced polymer networks.

Examiner disagrees. First, Examiner notes that Applicant does not claim that his "curable composition" is polymeric. Secondly, Applicant's use of the word "only" regarding his "curable coating composition" is not limited to one polymer or even one substance in the absence of fiber reinforcement. So long as a reference teaches a composition that is, at least in some part, thermally curable, the limitation of the claim has been met. The composition of Goodman in his pre-peg method may be defined, as suggested by Applicant, as a curable mixture of fiber and polymer, in which case application of "only ... curable coating composition" is taught by the reference since that composition is all that is applied.

Applicant argues that Goodman teaches repair of composite parts and "not the repair of the coating of a coated surface".

Examiner disagrees. Applicant's claim is directed to a process for "repairing a coated substrate", not to a process for repairing the coating of a coated surface, as argued, above. Even if the claim were limited to repair of a coating of a coated surface, the repair of coated substrates would also repair the coating and meet the claim limitations. Additionally, this repair language appears only in Applicant's preamble.

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Applicant argues that Goodman teaches away from thermal curing and that Negele's radiation types for his two-stage curing do not align with Applicant's.

Examiner disagrees.

As outlined in the previous office action, Goodman teaches the use of radiation to cure a thermally-curable composition. While Goodman teaches the use of e-beam radiation as "preferable", Goodman does not exclude the use of other forms of radiation. Given that the composition of Goodman is thermally-curable, it remains Examiner's position that it would have been obvious to one of ordinary skill in the art to select the thermal species of radiation from the broad genus class of "radiation" with the expectation of successful results. As further evidence of such, Examiner cited Negele to teach that thermal radiation is a suitable form of radiation in curing these types of compositions. While Applicant argues that Negele uses thermal radiation only in certain portions of his method, Examiner notes that Negele is cited merely to teach what she has already asserted, which is that thermal heat is a form of radiation suitable in the method of curing thermally-curable coating compositions. Regarding Applicant's argument that his method may be a two-step process, Examiner notes that this is not claimed.

Applicant argues that Smith, used in combination with Goodman, also fails to teach coating with "only" the composition.

This has been addressed above regarding Goodman.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Kolb Michener whose telephone number is 703-306-5462. The examiner can normally be reached on Monday through Thursday and alternate Fridays.

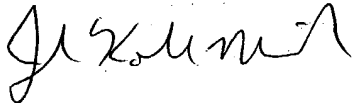
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on 703-308-2333. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to read "J. Kolb Michener".

Jennifer Kolb Michener  
Patent Examiner  
Technology Center 1700  
April 22, 2004